

## **SITE DEVELOPMENT PERMIT**

<b>FILE NO.</b>	<b>H12-020</b>
<b>LOCATION OF PROPERTY</b>	<b>Block bounded by North San Pedro Street, West Julian Street, Terraine Street, and Bassett Street</b>
<b>ZONING DISTRICT</b>	<b>DC Downtown Primary Commercial</b>
<b>GENERAL PLAN DESIGNATION</b>	<b>Downtown</b>
<b>PROPOSED USE</b>	<b>Site Development Permit to allow demolition of two existing industrial buildings and construction of up to 408 multi-family attached residential units in a new approximately 460,000 square foot building on a 2.35 gross acre site</b>
<b>ENVIRONMENTAL STATUS</b>	<b>Addendum to Brandenburg Mixed Use Project / North San Pedro Housing Site Environmental Impact Report</b>
<b>OWNER/ADDRESS</b>	<b>Successor Agency to the Redevelopment Agency of the City of San José 200 E. Santa Clara Street, 14<sup>th</sup> Floor San Jose, CA. 95113</b>

### **FACTS**

The Director of Planning, Building, and Code Enforcement finds that the following are the relevant facts regarding this proposed project:

1. This site has a designation of Downtown on the adopted Envision San José 2040 General Plan Land Use/Transportation Diagram.
2. The site is located in the DC Downtown Primary Commercial Zoning District.
3. The site is approximately 2.35 acres in size.
4. The one block site, which includes eight parcels, includes a two-story, 12,000 square foot industrial building constructed in 1948 at the southeast corner of Terraine Street and Bassett Street (380 Terraine Street, APN: 259-32-055) and a two-story, 26,000 square foot industrial building constructed in 1952 on the east side of Terraine Street between Bassett Street and W. Julian Street (330-340 Terraine Street, APN: 259-32-045).
5. This is a Site Development Permit to allow the demolition of two buildings totaling 38,000 square feet and the construction of a 460,000 square foot apartment building complex consisting of 408 units in four residential levels over two levels of parking.

6. The project includes the removal of two Tree of Heaven trees near Bassett Street; both are non-ordinance sized trees measuring approximately 30 inches in circumference.
7. Surrounding land uses consist of industrial uses to the northwest, a parking lot to the northeast and undeveloped property to the southeast and southwest.
8. Residential multiple dwelling uses are permitted uses in the DC Downtown Primary Commercial Zoning District.
9. Under the provisions of Tables 20-140 and 20-211 of the San Jose Municipal Code, a total of 408 bicycle parking spaces are required based upon 408 residential units. A total of 408 bicycle parking spaces are proposed on-site.
10. Under the provisions of Section 20.100.610(A)(1) of the San José Municipal Code, a Site Development Permit is required prior to the issuance of any building permit for erection, construction, enlargement, placement or installation of a building or structure on any site.
11. Under the provisions of Section 20.80.460 of the San Jose Municipal Code, the Director, or on appeal the Planning Commission or City Council, shall determine whether the benefits of permitting the demolition, removal or relocation of a building outweighs the impacts of the demolition, removal or relocation of a building prior to the issuance of any development permit which allows for the demolition, removal, or relocation such building.
12. On September 17, 2013, the Federal Aviation Administration (FAA) issued a Determination of No Hazard to Air Navigation for a proposed building on the subject site ranging up to a maximum height of 68 feet above ground level (AGL), or 153 feet above mean sea level (AMSL).
13. On January 23, 2014, the Director of Planning adopted an Addendum to Brandenburg Mixed Use Project / North San Pedro Housing Site Environmental Impact Report for the project.

## **FINDINGS**

The Director of Planning, Building, and Code Enforcement concludes and finds, based on the analysis of the above facts, that under the provisions of Section 20.80.440(A) of the San José Municipal Code, no demolition permit or removal permit shall be issued unless and until a Development Permit which specifically approves such demolition or removal has been issued and has become effective pursuant to the provisions of Chapter 20.100.

1. The Director of Planning has considered the following in evaluating the proposed demolition:
  - a. The failure to approve the permit would result in the creation of continued existence of a nuisance, blight or dangerous condition.
  - b. The failure to approve the permit would jeopardize public health, safety or welfare.
  - c. Both inventoried and non-inventoried buildings, sites and districts of historical significance will not be negatively impacted.
  - d. The approval of the demolition of the building would maintain the supply of existing housing stock in the City;
  - e. Rehabilitation or reuse of the existing building would not be feasible; and
  - f. The approval of the demolition of the building should facilitate a project that is compatible with the surrounding neighborhood.

2. Further, the Director of Planning concludes and finds, based on the analysis of the above facts, that:
  - a. The two buildings to be demolished were constructed for industrial uses and such demolition would not decrease the City's housing stock.
  - b. The two buildings to be demolished are not listed on the City's Historic Resources Inventory.
  - c. The site is not located in a National Register or City Landmark District, or City Conservation Area.
  - d. The proposed project is in conformance with the California Environmental Quality Act.
  - e. The re-use of the existing buildings could not accommodate the proposed residential multiple dwelling uses.
  - f. The benefits of permitting the demolition, removal or relocation of the subject buildings outweigh the impacts of the demolition, removal or relocation.
  - g. The demolished buildings would be replaced with a new building.

The Director of Planning, Building, and Code Enforcement concludes and finds, based on the analysis of the above facts with respect to the Site Development Permit findings (Section 20.100.630), that:

1. The interrelationship between the orientation, location and elevations of the proposed buildings and structures and other uses on-site are mutually compatible and aesthetically harmonious in that:
  - a. Consistent with the Residential Design Guidelines, the building facades avoid a "blocky" or linear appearance by breaking up the building massing with four different architectural themes that create the appearance of four distinct buildings.
  - b. To lighten the appearance of massing, the ground-level features storefront-style windows that enhance the pedestrian environment.
  - c. Consistent with the Residential Design Guidelines, vertical elements are emphasized in the four different architectural themes.
  - d. Rooftop equipment is enclosed and integrated into the building form.
2. The orientation, location and elevation of the proposed buildings and structures and other uses on the site are compatible with and are aesthetically harmonious with adjacent development or the character of the neighborhood in that:
  - a. Consistent with the character of this former industrial warehouse district in downtown, the proposed building is compatible with buildings that currently exist in this area and includes design elements that reproduce the architecture and materials of the warehouse buildings that were previously found in this area.
  - b. The lower level units engage the public sidewalk with decks and large windows and planters and decks both buffer and create a connection to the sidewalk, while maintaining privacy and security for the units.
  - c. Consistent with the Residential Design Guidelines, the proposed landscaped plaza is visible and accessible from Terraine Street.

3. The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative affect on adjacent property or properties in that:
  - a. An Addendum was granted for this project under the provisions of environment review requirements of Title 21 of the San José Municipal Code implementing the California Environmental Quality Act of 1970, as amended. The project will not have a significant adverse effect on the environment.
  - b. The project establishes a Mitigation Monitoring or Reporting Program to address adverse effects to air quality, biological resources, cultural resources, and hazards and hazardous materials.
4. Landscaping, irrigation systems, walls and fences, features to conceal outdoor activities, exterior heating, ventilating, plumbing, utility and trash facilities are sufficient to maintain or upgrade the appearance of the neighborhood in that:
  - a. Utility and trash facilities are located inside the building.
  - b. Rooftop equipment is screened from off-site view.
5. Traffic access, pedestrian access and parking are adequate in that:
  - a. The project includes the widening of sidewalks on all sides of the site to a 12-foot width.
  - b. The project conforms to the vehicle and bicycle parking requirements set forth in the Zoning Ordinance.
6. The application is consistent with the site's Envision San Jose 2040 General Plan Land Use/Transportation Diagram designation of Downtown in that:
  - a. Consistent with General Land Use Policy 3.1, this high density residential project puts residents in close proximity to employment, entertainment, and cultural uses in downtown.
  - b. Consistent with General Land Use Policy 3.5, the project minimizes the impacts of vehicle parking and provides for the needs of bicyclists and pedestrians, including adequate bicycle parking areas and design measures to promote pedestrian safety.

**APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:**

1. **Acceptance of Permit.** Per Section 20.100.290(B), should the applicant fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the applicant shall be deemed to constitute all of the following on behalf of the applicant:
  - a. Acceptance of the Permit by the applicant; and
  - b. Agreement by the applicant to be bound by, to comply with, and to do all things required of or by the applicant pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such Permit. (*API-2013*)
2. **Permit Expiration.** This Permit shall automatically expire four years from and after the date of issuance hereof by said Director, if within such time period, a Building Permit has not been obtained or the use, if no Building Permit is required, has not commenced, pursuant to and in accordance with the provision of this Permit. The date of issuance is the date this Permit is approved by the Director of Planning. However, the Director of Planning may approve a Permit Adjustment/Amendment to extend the validity of this Permit in accordance with Title 20. The

Permit Adjustment/Amendment must be approved prior to the expiration of this Permit. (AP2-2013)

3. **Building Permit/Certificate of Occupancy.** Procurement of a Building Permit and/or Certificate of Occupancy from the Building Official for the structures described or contemplated under this permit shall be deemed acceptance of all conditions specified in this permit and the applicant's agreement to fully comply with all of said conditions. No change in the character of occupancy or change to a different group of occupancies as described by the "Building Code" shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San Jose Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws. (AP3-2013)
4. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority. (AP5-2013)
5. **Conformance to Plans.** The development of the site shall conform to the approved Site Development Permit plans entitled, "San Pedro Square Residences" dated March 30, 2012, last revised on March 30, 2012 on file with the Department of Planning, Building and Code Enforcement, and to the San José Building Code (San José Municipal Code, Title 17, Chapter 17.04), with the exception of any subsequently approved changes. (AP6-2013)
6. **Parcel Map Required.** Prior to the issuance of a Foundation Permit or Building Permit, the permittee shall secure approval and provide recordation of a Parcel Map to remove or relocate any existing lot lines and public easements that cause the development to not comply with zoning and/or building code setbacks. (AP17-2013)
7. **Additional Permits Required.** The developer shall secure any and all necessary permits required for the development of this site and/or implementation of this use including, but not limited to permits from the Building Division, the Fire Department, and the Public Works Department. (AP18-2013)
8. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City. (AP20-2013)
9. **Conformance with Municipal Code.** No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code. (AP21-2013)
10. **Compliance with Local and State Laws.** The subject use shall be conducted in full compliance with all local and state laws. No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code. The Permit shall be subject to revocation if the subject use is conducted in such a manner as to cause a nuisance, as defined above. (AP22-2013)

11. **Revocation.** This Permit is subject to revocation for violation of any of its provisions or conditions. (AP23-2013)
12. **Discretionary Review.** The Director of Planning, Building and Code Enforcement maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Permit incorporated by reference in accordance with Chapter 20.100 of the San Jose Municipal Code (AP24-2013).
13. **Refuse.** All trash areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the garbage container. Trash areas shall be maintained in a manner to discourage illegal dumping. (AP25-2013)
14. **Outdoor Storage.** No outdoor storage is allowed or permitted unless designated on the approved plan set. (AP26-2013)
15. **Utilities.** All new on-site telephone, electrical, and other overhead service facilities shall be placed underground. (AP27-2013)
16. **Directory.** A lighted directory showing addresses and locations of all buildings on site shall be provided at the main entrance of the site. (AP28-2013)
17. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement. (AP29-2013)
18. **Anti Litter.** The site and surrounding area shall be maintained free of litter, refuse, and debris. Cleaning shall include keeping all publicly used areas free of litter, trash, cigarette butts and garbage. (AP30-2013)
19. **Sign Design.** Sign design and location, as delineated on the approved plan set are hereby approved and constitute the project's entire sign program. (AP32-2013)
20. **Building and Property Maintenance.** The property owner or management company shall maintain the property in good visual and functional condition. This shall include, but not be limited to all exterior elements of the buildings such as paint, roof, paving, signs, lighting and landscaping. (AP34-2013)
21. **Street Number Visibility.** Street numbers of the buildings shall be easily visible from the street at all times, day and night. (AP35-2013)
22. **Lighting.** All new on-site, exterior, unroofed lighting shall conform to the City's Outdoor Lighting Policy and shall use fully cut-off and fully shielded, low-pressure sodium fixtures unless otherwise approved with this project. Lighting shall be designed, controlled and maintained so that no light source is visible from outside of the property. (AP36-2013)
23. **Perimeter Fencing.** Fence height and materials shall be provided as shown on the approved plans. Changes to the approved fencing shall require review by the Director of Planning, Building, and Code Enforcement. (AP38-2013)
24. **Colors and Materials.** All building colors and materials are to be those specified on the Approved Plan Set (see Permit Adjustment Required condition below). (AP39-2013)
25. **Motorcycle Parking.** This project shall conform to the motorcycle parking requirements identified on the Zoning Ordinance, as amended. The required spaces shall be provided through a combination of dedicated spaces as shown on the plans and the use of surplus vehicular parking spaces which may serve as motorcycle parking spaces. (AP44-2013)

26. **Bicycle Parking Provisions.** This project shall provide a combination of short term uncovered bike parking as well as long term covered parking consistent with the requirements noted in the Zoning Ordinance. (AP45-2013)
27. **Mechanical Equipment.** No roof-mounted or other exterior mechanical equipment shall be located within 120 feet of a residential property line unless a Sound Engineer has certified that noise levels from such equipment will not exceed 55 dBA at the residential property line. All roof mounted mechanical equipment shall be screened from view. (AP46-2013)
28. **Generators.** This permit does not include the approval of any stand-by/backup electrical power generation facility. Any future stand-by/backup generators shall secure appropriate permits and shall conform to the regulations of Title 20 of the Municipal Code. (AP47-2013)
29. **Air Conditioning Equipment for Residential Uses.** The location of mechanical equipment (AC Units) shall be located as shown on the approved plans and shall be screened from view. (AP48-2013)
30. **Garage Parking Spaces for Attached Residential Unit Projects.** All garage parking spaces shown on the approved Planned Development Permit plans are to be used only as such and shall be kept free and clear of all obstructions. No conversion of any garages to living space, storage, or any other use is permitted. (AP49-2013)
31. **Green Building Requirements for Tier 2 Residential Development ( ≥ 10 units).** This development is subject to the City's Green Building Ordinance for Private Sector New Construction. Prior to the issuance of any shell or complete building permits issued on or after September 8, 2009 for the construction of buildings approved through the scope of this permit, the applicant shall pay a Green Building Refundable Deposit applicable to the gross square footage of said buildings which are approved through this permit. The project must receive the minimum green building certification of LEED Certified or GreenPoint Rated. The request for refund of the Green Building Deposit together with green building certification evidence demonstrating the achievement of the green building standards indicated above shall be submitted within a year after the building permit expires or becomes final, unless a request for an extension is submitted to the Director of Planning, Building, and Code Enforcement in accordance with Section 17.84.305D of the Municipal Code. (AP56-2013)
32. **Reclaimed Water.** The project shall conform to Chapter 15.10 and 15.11 of the San José Municipal Code. The Code addresses the use of reclaimed water including the requirement that an irrigation system be designed to allow for the current and future use of reclaimed water for all landscaped cumulative areas in excess of ten thousand (10,000) square feet. (AP59-2013)
33. **Eco Pass Program.** The project shall participate in the VTA Eco Pass program to attract transit users and help reduce traffic and air quality impacts. (AP61-2013)
34. **Deadline for Commencing Construction.** This permit shall automatically expire two years from and after the date of issuance hereof by said Director if within such two-year period construction of buildings has not commenced, pursuant to and in accordance with the provisions of this permit. The date of issuance is the date this permit is approved by the Director of Planning. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this permit for a period of up to two years. (AP63-2013)
35. **Over-Excavation.** All tree planting areas, including street trees, shall be over-excavated and new topsoil placed, to ensure the health of the trees. (SU37-2013)

36. **Demolition:** This permit allows the demolition of structures as noted on the approved Plans. (SU38-2013)
37. **Landscaping.** Planting and irrigation are to be provided, as indicated, on the final Approved Plan Set. Landscaped areas shall be maintained and watered and all dead plant material is to be removed and replaced by the property owner. Irrigation is to be installed in accordance with Part 4 of Chapter 15.10 of Title 15 of the San José Municipal Code, Water Efficient landscape Standards for New and Rehabilitated Landscaping and the City of San José Landscape and Irrigation Guidelines. (SU43-2013)
38. **Irrigation Standards.** The applicant shall install an adequately sized irrigation distribution system with automatic controllers in all areas to be landscaped that conforms to the Zonal Irrigation Plan in the Approved Plan Set and is consistent with the City of San José Landscape and Irrigation Guidelines. The design of the system shall be approved and stamped by a California Registered Landscape Architect. (SU44-2013)
39. **Certification.** Pursuant to San José Municipal Code, Section 15.10.486, certificates of substantial completion for landscape and irrigation installation shall be completed by licensed or certified professionals and provided to the Department of Planning, Building and Code Enforcement prior to approval of the final inspection of the project. (SU45-2013)
40. **Common Area Landscaping.** All landscaping in common areas shall be maintained by the Homeowner's Association or other similar entity. (SU48-2013)
41. **Fence Standards.** Fences shall be erected in accordance with the standards established on the Approved Plan Set. Changes to the approved fencing shall comply with Section 17.24 of the City of San Jose Municipal Code. (SU50-2013)
42. **Covenant of Easement.** Prior to approval of a building permit application, a Covenant of Easement for ingress, egress, emergency access, open space (no build zone) , shall be recorded, in a form approved by the City Attorney and concurrent with the recording of a Final Map, for the benefit of Parcels 259-32-50, 259-32-51, and 259-32-56 and said purposes as indicated on the Final Map, pursuant to the provisions of Government Code sections 65870-65875 and Part 1 of Chapter 20.110 of the San Jose Municipal Code. The no build zone shall be no less than that required to comply with applicable law and be located adjacent to and to the northwest of the property lines of Parcels 259-32-50, 259-32-51, and 259-32-56. Said easement area is to be kept open and free of surface structures of any kind and said easement shall not be modified or released without the prior approval of the City in the manner required by applicable law. (SEC10-2013)
43. **Stormwater Runoff Treatment Measures – Maintenance and Records.** The developer shall comply with the following: (EC1-2013)
- a. All stormwater runoff treatment measures installed on property shall be permanently maintained by the property owner in good repair and free of litter and debris, obstructions, and stored materials.
  - b. All owners of property on which a stormwater treatment measure has been installed pursuant to the requirements of this chapter shall retain, and make available for inspection and copying, all records of inspection and maintenance activities performed on the installed stormwater treatment measure within the five years immediately preceding the demand for such records by any representative of the City.



- c. It shall be unlawful for any person to alter, remove fail to maintain, or to cause, allow or permit alteration, removal or failure to maintain a stormwater treatment measure that has been installed pursuant to the requirements of this chapter, except pursuant to an adjustment to the development permit for the project if the development permit required installation of the stormwater treatment measure, or pursuant to an administrative permit issued for the removal or alteration of the stormwater treatment measure, if the measure was not installed pursuant to a development permit. The criteria for granting an adjustment or administrative permit shall be that an alternate means of providing equivalent stormwater treatment will be provided.
44. **Post-Construction Stormwater Runoff Treatment Measures - Maintenance and Records.** All post-construction treatment measures must be installed as specified on approved construction plans. Treatment measures shall not be altered or removed, and must be operated and maintained by qualified personnel consistent with approved development plans and/or supplemental operation and maintenance plans. Property owner must ensure that treatment measures continue to operate effectively for the life of the project. Property owners and/or property managers designated by the owner must keep a maintenance schedule and record of all treatment measures maintenance activities. Copies of maintenance schedules and records will be retained and made available for inspection upon request by the City. When used, all proprietary treatment measures must be operated and maintained per the manufacturers' specifications. The City may require additional maintenance beyond the manufacturers' specifications, if needed. (EC2-2013)
45. **Stormwater Management – Construction Activities.** The project shall incorporate Best Management Practices (BMPs) into the project to control the discharge of stormwater pollutants including sediments associated with construction activities. Examples of BMPs are contained in the *CASQA Stormwater BMP Construction Handbook Portal* (July 2012). Prior to the issuance of a grading permit, the applicant may be required to submit an Erosion Control Plan to the City Project Engineer, Department of Public Works, 200 East Santa Clara Street, San José, California 95113. The Erosion Control Plan may include BMPs as specified in the *CASQA Stormwater BMP Construction Handbook Portal* (July 2012) for reducing impacts on the City's storm drainage system from construction activities. For additional information about the Erosion Control Plan, the NPDES permit requirements or the documents mentioned above, please call the Department of Public Works at (408) 277-5161. (EC3-2013)
46. **Stormwater Stenciling.** All storm drain inlets and catch basins shall be labeled with the "NO DUMPING - FLOWS TO NEIGHBORHOOD CREEK" stencil. The "No Dumping" message should be applied to both the top of the curb and the face of the curb next to the storm drain inlet, preferably on the left side. If this is not feasible, place the message in the street in front of the inlet. The stencils may be obtained, at no charge, through the Environmental Service Department. Contact Suzanne Thomas at (408) 945-3000. (EC4-2013)
47. **Post-Construction Stormwater Runoff Pollution Control Measures (Regulated Projects).** This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Low Impact Development (LID) techniques including site design, source control, and numerically-sized stormwater treatment measures to minimize stormwater pollutant discharges. Post-construction treatment control measures, shown on the project's Stormwater Control Plan,

shall meet the numeric sizing design criteria specified in City Policy 6-29 and shall be designed consistent with the SCVURPPP C.3 Handbook guidelines. (EC5-2013)

**48. Post-Construction Stormwater Runoff Pollution Control Measures – Construction**

**Inspection.** The project shall notify the Public Works Department Inspector prior to the installation of all stormwater treatment control measures and/or hydromodification control (HM) facilities associated with the project. The project's Public Works Department Inspector must verify the proper installation of all stormwater treatment control measures and HM facilities prior to issuance of a Public Works Clearance. (EC6-2013)

**49. Archaeology.** There shall be monitoring of site excavation activities to the extent determined by a qualified professional archaeologist to be necessary to insure accurate evaluation of potential impacts to prehistoric resources. (EC12-2013)

- a. If no resources are discovered, the archaeologist shall submit a report to the Director of Planning verifying that the required monitoring occurred and that no further mitigation is necessary.
- b. If evidence of any archaeological, cultural, and/or historical deposits are found, hand excavation and/or mechanical excavation will proceed to evaluate the deposits for determination of significance as defined by CEQA guidelines. The archaeologist shall submit reports, to the satisfaction of the Director of Planning, describing the testing program and subsequent results. These reports shall identify any program mitigation that the Developer shall complete in order to mitigate archaeological impacts (including resource recovery and/or avoidance testing and analysis, removal, reburial, and curation of archaeological resources.)
- c. In the event that human remains and/or cultural materials are found, all project-related construction shall cease within a 50-foot radius in order to proceed with the testing and mitigation measures required. Pursuant to Section 7050.5 of the Health and Safety Code and Section 5097.94 of the Public Resources Code of the State of California:
  - i. In the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.
  - ii. A final report shall be submitted to the Director of Planning prior to release of a Certificate of Occupancy. This report shall contain a description of the mitigation programs and its results including a description of the monitoring and testing program, a list of the resources found, a summary of the resources analysis methodology and conclusions, and a description of the disposition/curation of the resources. The report shall verify completion of the mitigation program to the satisfaction of the Director of Planning.

50. **Santa Clara Valley Habitat Plan.** The proposed project is located within the Santa Clara Valley Habitat Plan Study Area (“Habitat Plan”). The Habitat Plan is a regional endangered species mitigation plan that complies with State and Federal Endangered Species Act requirements. New development projects that are within the Habitat Plan study area are subject to the payment of fees and compliance with conditions of approval related to impacts to endangered species habitat. The Santa Clara Valley Habitat Plan was adopted by the City of San Jose on January 29, 2013 and is anticipated to begin implementation in Fall 2013. Your project may be subject to the Habitat Plan fees and conditions, depending upon when final building and grading permits are issued and based on the location and size of the project. “Pipeline Projects” that obtain final building or grading permits within one year of the start of Habitat Plan implementation may be exempt from fees and conditions. Because the project is located within one of the City’s Employment Land Growth Areas, the Habitat Plan Nitrogen Deposition fee for the project would be paid by the City from the Construction Excise Tax Fund should the project not meet the Pipeline Project schedule. Checklists describing the applicability of Habitat Plan fees and conditions to specific development projects are anticipated to be available for public review by Summer 2013. The Habitat Plan and supporting materials can be viewed at [www.scv-habitatplan.org](http://www.scv-habitatplan.org). (EC14-2013)
51. **Raptors.** If possible, construction should be scheduled between October and December (inclusive) to avoid the raptor nesting season. If this is not possible, pre-construction surveys for nesting raptors shall be conducted by a qualified ornithologist to identify active raptor nests that may be disturbed during project implementation. Between January and April (inclusive) pre-construction surveys shall be conducted no more than 14 days prior to the initiation of construction activities or tree relocation or removal. Between May and August (inclusive), pre-construction surveys no more than thirty (30) days prior to the initiation of these activities. The surveying ornithologist shall inspect all trees in and immediately adjacent to the construction area for raptor nests. If an active raptor nest is found in or close enough to the construction area to be disturbed by these activities, the ornithologist, shall, in consultation with the State of California, Department of Fish & Game (CDFG), designate a construction-free buffer zone (typically 250 feet) around the nest. The applicant shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the Planning Department prior to the issuance of any grading or building permit. (EC15-2013)
52. **Bats.** Surveys for roosting bats shall be conducted by a qualified biologist no more than thirty (30) days prior to any building demolition or removal, construction activities or Oak tree relocation and/or removal. If a female or maternity colony of bats is found on the project site, and the project can be constructed without disturbance to the roosting colony, a bat biologist shall designate buffer zones (both physical and temporal) as necessary to ensure the continued success of the colony. Buffer zones may include a 200-foot buffer zone from the roost and/or timing of the construction activities outside the maternity roosting season (after July 31 and before March 1). If an active nursery roost is known to occur on the site and the project cannot be conducted outside of the maternity roosting season, bats may be excluded after July 31 and before March 1 to prevent the formation of maternity colonies. Such exclusion shall occur under the direction of a bat biologist, by sealing openings and providing bats with one-way exclusion doors. In order to avoid excluding all potential maternity roosting habitat simultaneously, alternative roosting habitat, as determined by the bat biologist, should be in place at least one summer season prior to the exclusion. Bat roosts should be monitored as determined necessary by a qualified bat biologist, and the removal or displacement of bats shall be performed in conformance with the requirements of the CDFG.

A biologist report outlining the results of pre-construction surveys and any recommended buffer zones or other mitigation shall be submitted to the satisfaction of the Director of Planning prior to the issuance of any grading, building, or tree removal permit. (*EC16-2013*)

- i. If possible, construction should be scheduled between September and December (inclusive) to avoid the nesting season. If this is not possible, pre-construction surveys for nesting white-tailed kite, non-listed raptors and other non-listed breeding birds shall be conducted by a qualified biologist to identify active nests that may be disturbed during project implementation. Between January and April (inclusive) pre-construction surveys shall be conducted no more than 14 days prior to the initiation of construction activities or tree relocation or removal. Between May and August (inclusive), pre-construction surveys shall be conducted no more than thirty (30) days prior to the initiation of these activities. The surveying biologist shall inspect all trees in and within 250 feet of the construction area for active nests. If an active nest is found in or close enough to the construction area to be disturbed by these activities, the biologist shall, in consultation with the California Department of Fish and Game, designate a construction-free buffer zone (typically 250 feet) around the nest, which shall be maintained until after the breeding season has ended and/or a qualified biologist has determined that the young birds have fledged. The applicant shall submit a report to the City's Environmental Principal Planner indicating the results of the survey and any designated buffer zones to the satisfaction of the City's Environmental Principal Planner prior to the issuance of any grading or building permit.
- ii. A detailed bat survey shall be conducted to determine if bats are roosting or breeding in the onsite buildings prior to demolition. A qualified bat specialist shall look for individuals, guano, staining, and/or vocalization by direct observation and potential waiting for nighttime emergence. The survey shall be conducted during the time of year when bats are active, between April 1 and September 15. If demolition is planned within this timeframe, the survey shall be conducted within 30 days of demolition. An initial survey could be conducted to provide early warning if bats are present, but a follow-up survey will be necessary within 30 days. If demolition is planned outside of this timeframe (September 16 through March 31), the survey shall be conducted in September prior to demolition. If no bats are observed to be roosting or breeding in these structures, then no further action would be required, and demolition can proceed.
- iii. If a non-breeding bat colony is found in the buildings to be demolished, the individuals should be humanely evicted via the partial dismantlement of the buildings prior to demolition under the direction of a qualified bat specialist to ensure that no harm or "take" would occur to any bats as a result of demolition activities. If a maternity colony is detected in the buildings, then a construction-free buffer shall be established around the structure and remain in place until it has been determined that the nursery is no longer active. Demolition should preferably be done between March 1 and April 15 or August 15 and October 15 to avoid interfering with an active nursery.
- iv. A biologist report outlining the results of pre-construction bat surveys and any recommended buffer zones or other mitigation shall be submitted to the City's Environmental Principal Planner and shall be approved to the satisfaction of the Director of Planning prior to the issuance of any grading or building permit.

53. **Noise Mitigation.** Construction of all structures approved by this permit shall include implementation of the noise mitigation measures identified in the noise reports titled, "Environmental Noise Assessment, West Julian Revitalization Project," dated February 28, 2001, prepared by Brown-Buntin Associates, Inc., and "Noise and Vibration Assessment Study for the Planned North San Pedro Apartments," dated September 10, 2010, prepared by Edward L. Pack Associates, Inc., as required by the Director of Planning, Building and Code Enforcement. (EC17-2013)
54. **Construction Noise.** The following mitigation measures shall be implemented for construction activities wherever there is a direct view from existing residences adjacent to the site, or where construction occurs within 500 feet of a residential area. (EC23-2013)
- a. *Construction Noise.*
    - i. Contractors shall be required to use "new technology" power construction equipment with state-of-the-art noise shielding and muffling devices. All internal combustion engines used at the project site, as well as at off-site locations with project construction, shall be equipped with adequate muffling devices. All equipment shall be in good mechanical condition, to minimize noise created by faulty or poorly maintained engine, drive-train and other components.
    - ii. The contractor shall schedule on-site and off-site construction activities in shifts to avoid high noise levels caused by simultaneously operating several pieces of noise-generating equipment.
    - iii. Temporary berms or noise barriers, such as lumber, or other material stockpiles shall be installed during construction activities.
    - iv. The following equipment shall be used during construction
      - 1) Earth Removal: Use scrapers as much as possible for earth removal, rather than the noisier loaders and hauling trucks.
      - 2) Backfilling: Use a backhoe for backfilling, as it is less costly and quieter than either noisier bulldozers or loaders.
      - 3) Ground Preparation: Use a motor grader rather than a bulldozer for final grading.
      - 4) Building Construction: Power saws should be shielded or enclosed where practical to decrease noise emissions. Nail guns should be used where possible, as they are less noisy than manual hammering.
  - b. *Blasting Noise.* Blasting activities shall be limited to the hours between 7:00 a.m. and 7:00 p.m. on Monday through Friday. Sufficient advance notification to the City of San José Director of Planning and Building and Director of Public Works and to residents in the area prior to initiating blasting activities shall be provided.
  - c. *Interior Noise.* The Proposed Project includes the mitigation measures below to reduce interior noise impacts to a less than significant level by inclusion of the following items:
    - i. All proposed residential units of the project require an alternative form of ventilation, such as noise-baffled passive air ventilation systems or mechanical air conditioning systems, to ensure that windows could remain closed for a prolonged period of time and maintain the interior noise level standard of 45 dBA Ldn.
    - ii. A portion of the common use areas shall be located in the interior landscaped courtyard.

- 55. Construction Impact Mitigation Measures.** The applicant is responsible for notifying all contractors of the conditions of this permit and that they shall perform construction activities in compliance with these conditions, or be subject to enforcement action. (*EC24-2013*)
- a. *Compliance.* The applicant shall ensure that the following construction impact mitigation measures are fully complied with throughout the duration of all construction activities associated with this project and related off-site construction work. Failure to comply with these conditions by the applicant, their contractors or subcontractors shall be cause for shutdown of the project site until compliance with the following conditions can be ensured by the City. These construction impact mitigation measures shall be included in all contract documents for the project to ensure full disclosure to contractors and subcontractors.
  - b. *Construction Hours.* Construction and grading activities shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday. This includes the staging of equipment and construction personnel. The construction hours shall be printed on all plans for the project used to construct the project. Interior construction activities that do not generate any audible noise impacts at residential properties are allowed on Saturdays between 9:00 a.m. and 5:00 p.m.
  - c. *Enforcement.* The Director of Planning, Building and Code Enforcement may order an immediate halt to construction activities on the project site any time that the Director determines that the project is not in substantial conformance with the requirements of this Permit. Within seven days of ordering such a halt to construction, the Director of Planning, Building and Code Enforcement shall issue a Notice of Noncompliance in conformance with Section 20.100.320 of Title 20 of the San José Municipal Code indicating the specific area(s) of noncompliance and providing notice that the Director may issue an Order to Show Cause why the development permit shall not be revoked, suspended, or modified if the noncompliance is not corrected.
  - d. *Construction Deliveries.* Deliveries shall not occur outside the above construction hours. All deliveries shall be coordinated to ensure that no delivery vehicles arrive prior to the opening of the gates to prevent the disruption of nearby residents.
  - e. *Fencing.* The site shall be wholly enclosed by security fencing where the site is accessible by vehicles. The gates to the project site shall remain locked during all other times, except for a 30-minute period immediately preceding and following the above hours of construction.
  - f. *Assembly Area.* Workers shall not arrive to the site until the opening of the project gates. The applicant shall designate a location without adjacent residential units for workers to wait prior to the opening of the project gates.
  - g. *Disturbance Coordinator.* A Construction/Disturbance Coordinator shall be identified by the developer for this project. The Construction/Disturbance Coordinator shall be responsible for ensuring compliance with the hours of construction, site housekeeping, and other nuisance compliance conditions in this permit. The coordinator shall also compile information regarding construction phasing/operations and keep the neighborhood informed of the stages of development. The coordinator shall also listen and respond to neighborhood concerns regarding construction, determine the cause of the concern (e.g., starting too early, bad muffler, etc.) and institute reasonable measures warranted to correct the problem in a timely manner. The coordinator shall maintain a log of calls and shall make that log available to the City of San Jose upon request.

- h. *Posting of Telephone Number.* The name and phone number of the Construction/Disturbance coordinator, the hours of construction limitations, City File Number H12-020, City contact and phone number (department and phone number), shall be displayed on a weatherproof sign posted at each entrance to the project site. A local phone number with answering service shall be maintained during the duration of project construction.
- i. *Street Cleaning and Dust Control.* During construction, the developer shall damp-sweep the public and private streets within and adjoining the project site each working day sufficient to remove all visible debris and soil. On-site areas visible to the public from the public right-of-way shall be cleaned of debris, rubbish, and trash at least once a week. While the project is under construction, the developer shall implement effective dust control measures to prevent dust and other airborne matter from leaving the site.
- j. *Construction Watering.* The proposed project shall use recycled water for all grading, dust control, and other non-potable approved uses during construction to the satisfaction of the Director of Public Works.

**56. Air Quality.** During construction, the following measures shall be incorporated to mitigate any possible significant air quality impacts. (*EC25-2013*)

Consistent with guidance from the Bay Area Air Quality Management District (BAAQMD), the following measures shall be required of construction contracts and specifications for the project.

- a. *Demolition.* The following controls shall be implemented during demolition:
  - i. Watering shall be used to control dust generation during demolition of structures and break-up of pavement.
  - ii. Cover all trucks hauling demolition debris from the site.
  - iii. Use dust-proof chutes to load debris into trucks whenever feasible.
- b. *Construction.* The following controls shall be implemented at all construction sites:
  - i. Water all active construction areas at least twice daily and more often during windy periods; active areas adjacent to existing land uses shall be kept damp at all times, or shall be treated with non-toxic stabilizers or dust palliatives;
  - ii. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least 2 feet of freeboard;
  - iii. Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas, and staging areas at construction sites;
  - iv. Sweep daily (with water sweepers) all paved access roads, parking areas, and staging areas at construction sites; water sweepers shall vacuum up excess water to avoid runoff-related impacts to water quality;
  - v. Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets;
  - vi. Apply non-toxic soil stabilizers to inactive construction areas;
  - vii. Enclose, cover, water twice daily, or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.);
  - viii. Limit traffic speeds on unpaved roads to 15 mph;

- ix. Install sandbags or other erosion control measures to prevent silt runoff to public roadways;
  - x. Replant vegetation in disturbed areas as quickly as possible.
  - xi. Install wheel washers for all exiting trucks, or wash off the tires or tracks of all trucks and equipment leaving the site; and
  - xii. Suspend excavation and grading activity when winds (instantaneous gusts) exceed 25 mph.
  - xiii. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
  - xiv. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
  - xv. Post a publicly visible sign with the telephone number and person to contact at the City of San José regarding dust complaints. This person shall respond and take corrective action within 48 hours.
- c. *Ongoing.* The following measures shall be implemented with the project.
- i. Provide neighborhood-serving shops and services within or adjacent to residential development.
  - ii. Provide transit facilities (e.g., bus bulbs/turnouts, benches, shelters).
  - iii. Provide shuttle service to regional transit system or multimodal center.
  - iv. Provide shuttle service to major destinations such as employment centers, shopping centers and schools.
  - v. Provide bicycle lanes and/or paths, connected to community-wide network.
  - vi. Provide sidewalks and/or paths, connected to adjacent land uses, transit stops, and/or community-wide network.
  - vii. Provide satellite telecommunication centers in large residential developments.
  - viii. Provide secure and conveniently located bicycle and storage for residents.
  - ix. Wire each housing unit to allow use of emerging electronic communication technology.
  - x. Implement feasible TDM measures including a ride-matching program, coordination with regional ridesharing organizations and provision of transit information.
  - xi. Provide a subsidized Ecopass for each resident of the proposed project.



**57. Biology. (EC26-2013)**

- a. For trees that cannot be incorporated into new landscaping, a City of San José Tree Removal Permit shall be obtained prior to removal of trees from the site. Loss of ordinance size trees will be mitigated by implementation of landscaping plans approved by the City of San José, in conformance with the City of San José landscaping guidelines and City of San José Planning Department specifications. The City of San José requires tree replacement for those trees greater than 18 inches in diameter at a ratio of 4:1 (trees planted to trees removed).

**58. Hazards and Hazardous Materials Mitigation.**

- a. Prior to building demolition, an asbestos survey is required by local authorities and/or National Emissions Standards for Hazardous Air Pollutants (NESHAP) guidelines. NESHAP guidelines require the removal of potentially friable asbestos-containing building materials (ACBM) prior to building demolition or renovation that may disturb the ACBM.
- b. A lead survey of painted surfaces built prior to 1978 will be performed prior to demolition. The removal of lead based paint is not required prior to building demolition if it is bonded to the building materials. However, if the lead-based paint is flaking, peeling, or blistering, it shall be removed prior to demolition. In either case, applicable OSHA regulations must be followed; these include requirements for worker training, air monitoring and dust control, among others. Any debris or soil containing lead must be disposed appropriately at facilities that meet acceptance criteria for hazardous waste.
- c. If mercury-containing fluorescent light tubes are present, tubes shall be removed from the fixtures without breakage and packaged for mercury reclamation as a universal waste through an appropriate vendor prior to demolition of the structures.
- d. Light ballast shall be observed for the printed statement, "No PCBs". Ballasts missing the "No PCBs" label shall be removed from the fixtures and disposed as PCB containing materials prior to the demolition of the buildings. Ballast marked as "No PCBs" could contain land-banned dielectric fluids and also shall be disposed in an appropriate manner.
- e. A Site Safety Plan/Soil and Groundwater Management Plan shall be prepared, which will address emergency procedures and the management and disposal of contaminated soils and groundwater. Use, storage, disposal, and transport of hazardous materials during construction activities shall be performed in accordance with existing local, State, and federal hazardous materials regulations.
- f. Prior to issuance of any grading, demolition, or building permits for the project, a Site Safety Plan/Soil and Groundwater Management Plan (Plan) should be prepared. At a minimum, the Plan should establish soil and groundwater mitigation and control specifications for grading and construction activities, including health and safety provisions for monitoring exposure to construction workers, procedures to be undertaken in the event that previously unreported contamination is discovered, and emergency procedures and responsible personnel. The Plan should also include procedures for managing soils and groundwater removed from the site to ensure that any excavated soils and/or dewatered groundwater with contaminants are stored, managed, and disposed of in accordance with applicable regulations.

- g. Prior to the issuance of any grading, demolition, or building permits at properties where Phase I activities have identified a potential hazardous materials issue that has not yet been evaluated in a Phase II investigation, a subsurface investigation should be conducted at the project site by a qualified environmental professional, in accordance with recommendations in the Brown and Caldwell summary report. Properties (and landowners) where the summary report recommended an additional Phase II investigation include 199 Bassett Street (Trenka). If significant releases of hazardous materials are discovered during Phase II activities, additional investigation, remediation, and /or coordination with regulatory agencies may be required prior to redevelopment of the parcels.
  - h. Prior to the issuance of any permits for grading, demolition, or construction at the 153 West Julian Street property, the City shall require certification of completion of the remedial action required by RWQCB Order 99-088.
  - i. Prior to the issuance of permits for grading, demolition, or construction at the 129-149 West Julian and 355 North San Pedro properties, the City shall require certification of completion of the Corrective Actions Plans for those sites by RWQCB.
  - j. As a condition of approval for any demolition or permit for a structure known or suspected to have been constructed prior to 1985, an asbestos and lead-based paint survey shall be performed. If asbestos-containing materials are determined to be present, the materials shall be abated by a certified asbestos abatement contractor in accordance with the regulations and notification requirements of the Bay Area Air Quality Management District. If lead-based paint are identified, then federal and State construction worker health and safety regulations shall be followed during renovation or demolition activities. If loose or peeling lead-based paint are identified, they shall be removed by a qualified lead abatement contractor and disposed of in accordance with existing hazardous waste regulations.
59. **Asbestos.** In accordance with State law, an asbestos survey shall be completed prior to the demolition renovation of any structures on the site. If any asbestos building materials are present, an asbestos abatement program will be implemented, including the removal and disposal of the materials at a permitted facility. *(EC41-2013)*
60. **Toxic Assessment.** Prior to any property dedication to the City, the applicant shall obtain an assessment for toxic contamination from a qualified environmental engineering consultant. If no toxic contamination is found, a report from the consultant shall be submitted to the satisfaction of the Director of Planning, Building and Code Enforcement prior to recordation of the Final Map and issuance of any building permits. If contamination is found, a report from the consultant shall verify completion of any associated toxic cleanup to the satisfaction of the Director of Planning, Building and Code Enforcement prior to the recordation of the Final Map and issuance of any building permits. *(EC43-2013)*
61. **Conformance to MMRP.** This project shall conform to all applicable requirements of the Mitigation Monitoring and Reporting Program approved for this development. *(EC44-2013)*

## **Airport**

- 1. **Airport Land Use Commission.** The Airport Land Use Commission (ALUC) maintains jurisdiction over the subject property. This project shall comply with all ALUC safety zone development policies. *(OD1-2013)*
- 2. **Avigation Easement.** An avigation easement must be granted by the applicant to the City of San Jose. *(OD2-2013)*

3. **FAA Clearance Required.** The permittee shall obtain from the Federal Aviation Administration a “Determination of No Hazard to Air Navigation” for each building high point. The permittee shall abide by any and all conditions of the FAA determinations (if issued) such as height specifications, rooftop marking/lighting, construction notifications to the FAA through filing of Form 7460-2, and “No Hazard Determination” expiration date. The data on the FAA forms should be prepared by a licensed civil engineer or surveyor, with location coordinates (latitude/longitude) in NAD83 datum out to hundredths of seconds, and elevations in NAVD88 datum rounded off to the next highest foot. (OD3-2013)

## **Building**

1. **Building Division Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official: (OD4-2013)
  - a. *Construction Plans.* This permit file number, H12-020 shall be printed on all construction plans submitted to the Building Division. (OD5-2013)
  - b. *Americans with Disabilities Act.* The applicant shall provide appropriate access as required by the Americans with Disabilities Act (ADA). (OD6-2013)
  - c. *Emergency Address Card.* The project developer shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department. (OD7-2013)
  - d. *Construction Plan Conformance.* A project construction plan conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to any building permit issuance, building permit plans shall conform to the approved Planning development permits and applicable conditions. (OD8-2013)
  - e. *Common Interest Development.* Prior to issuance of any certificate of occupancy, or release for occupancy, the applicant shall provide a self-certified statement to the satisfaction of the City’s Chief Building Official that the project, as constructed, meets the City of San Jose Common Interest Development standards. (OD9-2013)
  - f. *Project Addressing Plan.* Prior to issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official: The project applicant shall submit an addressing plan for approval for the subject development (residential, mixed use, complex commercial or industrial). The addressing plan should include proposed street names for the streets (as referenced on an approved tentative map) and the type of addressing (i.e., individual street addresses as compared to unit number off of a primary street). (OD10-2013)

## **Environmental Services**

1. **Recycling Container Space.** The proposed multi-family development must follow the requirements for recycling container space. All residential developments, where central garbage and recycling containers will serve five or more dwelling units, must have space for the storage and collection of recyclables. This includes the provision of recycling chutes where garbage chutes are provided. Project plans must show the placement of recycling containers, for example, within the details of the solid waste enclosures.

2. **Recycling.** Scrap construction and demolition material shall be recycled. Integrated Waste Management staff at (408) 535-8550 can provide assistance on how to recycle construction and demolition debris from the project, including information on available haulers and processors. (OD11-2013)

## Fire

The following requirements shall be called for at the building permit stage. The applicant has the option to apply for variance if the code requirements can not be met. Note: Plans shall be submitted to the Fire Department by appointment only as soon as possible.

1. **Emergency Vehicle Access.** The proposed North San Pedro Park site adjacent to the project site shall include Emergency Vehicle Access (EVA) to serve the project site, subject to approval by the Fire Department.
2. **Width, length, and grade of the fire apparatus access roads, streets, avenues, and the like.** Every portion of all building exterior walls shall be within 150 feet of an access road (including walls on the podium level). The fire access shall:
  - a. have an approved all weather surface;
  - b. be at least 20 feet wide;
  - c. have a minimum 13 feet 6 inch vertical clearance;
  - d. be designed and maintained to support the loads of fire apparatus of at least 75,000 pounds;
  - e. have a minimum inside turning radius of 30 feet and an outside turning radius of 50 feet;
  - f. be designed with approved provisions for turning around of fire apparatus if it dead ends and is in excess of 150 feet;
  - g. have a maximum grade of 15%;
  - h. A second point of access is required when a fire apparatus road exceeds 1,000 feet;
  - i. Curbs are required to be painted red and marked as "Fire Lane -No Parking" under the following conditions: (show exact locations on plan)
    - i. Roads, streets, avenues, and the like that are 20 to less than 26 feet wide measured from face-of-curb to face-of-curb shall have curbs on both sides of the road painted and marked
    - ii. Roads, streets, avenues, and the like that are 26 to less than 32 feet wide measured from face-of-curb to face-of-curb shall have one curb painted and marked
3. **Available fire flow.** Provide a copy of the letter from the water company that indicates the water flow available.
4. **Locations of fire hydrants.** The average distance between hydrants shall not exceed 200 feet. The maximum distance from any point on street frontage to a hydrant shall be 120 feet. Any exterior portion of all buildings shall be within 400 feet of a hydrant.
5. **Public Safety Radio Coverage is to be provided.** Communication repeaters may be required to be installed in the buildings.
6. **Outdoor covered areas and trash enclosures may require the sprinkler system to be extended to protect them.**

7. **Provide Fire Department personnel route of travel for the interior courts.** The Fire Department requires all exterior stairways to have direct egress to all interior court(s) without obstructions for equipment (i.e., ladders, etc.) used by this Department for rescue as well as suppression. All exterior stairways to interior podium shall be 6 feet wide for the fire personnel for reasons as noted.
8. **Every sleeping room below the fourth story shall have at least one operable window or door approved for emergency escape or rescue that shall open directly into a public street, public alley, yard, or exit court.** Such windows or doors shall be in accordance with the adopted Building Code, and accessible for Fire Dept. laddering operation. The angle for laddering is 70deg. from horizontal. Show all pertaining details including landscaping and pavers in relation to rescue window operation. Laddering pads cannot be inside or on top of raised planters.
9. **Elevator shall be in accordance with the requirements stipulated in the California Building Code Chapter 30 and San Jose Municipal Code 28829.** Provide dimensions of the elevator cab on plans.
10. **A "Construction Fire Protection Plan" for approval by San Jose Building and Fire Departments is required prior to starting construction.**
11. **The developer/owner shall create and maintain a Management Association which will be responsible for the fire/life safety systems inspections per Title 19 and access to the systems if applicable.**
12. **Fire Sprinkler and Standpipe Fire Department Connections (FDC) serving the same building shall be located directly adjacent to each other.** Buildings in excess of 200 feet long and or having frontage on multiple streets shall have multiple FDCs. The Locations shall be approved during Plan Check by San Jose Fire Department and shall be depicted on the riser key plan(s).
13. **Fire alarm system will be required.**
14. **Fire sprinkler system will be required.**

## **Public Works**

**Public Works Clearance.** A Development Clearance shall be obtained from the Public Works Department, and is subject to the following requirements to the satisfaction of the Director of Public Works (*OD46-2013*).

1. **Construction Agreement:** The public improvements conditioned as part of this permit require the execution of a Construction Agreement that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This agreement includes privately engineered plans, bonds, insurance, a completion deposit, and engineering and inspection fees.
2. **Transportation:** This project is located in the expanded Downtown Core and is covered under the new San Jose Downtown Strategy 2000 EIR; therefore, no further traffic analysis is required. We conclude that the subject project will be in conformance with the City of San Jose Transportation Level of Service Policy (Council Policy 5-3) and a determination for a negative declaration can be made with respect to traffic impacts.

3. **Grading/Geology:**

- a. A grading permit is required prior to the issuance of a Public Works Clearance.
  - b. All on-site storm drainage conveyance facilities and earth retaining structures 4' foot in height or greater (top of wall to bottom of footing) or is being surcharged (slope of 3:1 or greater abutting the wall) shall be reviewed and approved under Public Works grading and drainage permit prior to the issuance of Public Works Clearance. The drainage plan should include all underground pipes, building drains, area drains and inlets. The project shall provide storm drainage calculations that adhere to the 2010 California Plumbing Code or submit a stamped and signed alternate engineered design for Public Works discretionary approval and should be designed to convey a 10 year storm event.
  - c. If the project proposes to haul more than 10,000 cubic yards of cut/fill to or from the project site, a haul route permit is required. Prior to issuance of a grading permit, contact the Department of Transportation at (408) 535-3850 for more information concerning the requirements for obtaining this permit.
  - d. Because this project involves a land disturbance of more than one acre, the applicant is required to submit a Notice of Intent to the State Water Resources Control Board and to prepare a Storm Water Pollution Prevention Plan (SWPPP) for controlling storm water discharges associated with construction activity. Copies of these documents must be submitted to the City Project Engineer prior to issuance of a grading permit.
  - e. The Project site is within the State of California Seismic Hazard Zone. A geotechnical investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The investigation should be consistent with the guidelines published by the State of California (CGS Special Publication 117 A) and the Southern California Earthquake Center (SCEC, 1999). A recommended depth of 50 feet should be explored and evaluated in the investigation.
4. **Stormwater Peak Flow Control Measures:** The project is located in a non Hydromodification Management area and is not required to comply with the City's Post Construction Hydromodification Management Policy (Council Policy 8-14).
5. **Flood: Zone D** The project site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood Zone D is an unstudied area where flood hazards are undetermined, but flooding is possible. There are no City floodplain requirements for zone D.
6. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.
7. **Street Improvements:** The Bassett Street, Terraine Street, and West Julian Street public improvements are included in the Julian Street Realignment Project. If the Julian Street Realignment Project is not implemented at the time of this project's construction, this project is required to construct the public improvements along the project frontage in conformance with the Julian Street Realignment Project. The improvements and conditions include, but are not limited to:
- a. Construction of curb gutter and a 12' attached sidewalk with tree wells.
  - b. Construction of 1/2 street pavement sections along Bassett Street, Terraine Street and Old West Julian Street.

- c. Construction of street lighting and pedestrian lighting.
  - d. Storm and sanitary sewer laterals and mains.
  - e. Providing a bulb-out at the Northwest corner of Julian Street and San Pedro Street and a north/south crosswalk along the west leg of the intersection.
  - f. Remove and replace curb, gutter, and sidewalk along Terraine Street, Bassett Street and Old West Julian Street project frontages.
  - g. Remove and replace broken/uplifted curb gutter and sidewalk along North San Pedro Street.
  - h. Closing unused driveway cuts.
  - i. Proposed driveway widths to be 26'.
  - j. Dedication and improvement of the public streets shall be to the satisfaction of the Director of Public Works.
8. **Greater Downtown Area Master Plans:** This project is located within the Greater Downtown area. Public improvements shall conform to the Council approved San José Downtown Streetscape and Street and Pedestrian Lighting Master Plans.
9. **Electrical:** Existing electroliers along the project frontage will be evaluated at the public improvement stage and any street lighting requirements will be included on the public improvement plans.
10. **Street Trees:** The locations of the street trees will be determined at the street improvement stage. Contact the City Arborist at (408) 794-1901 for the designated street tree. Install street trees within public right-of-way along entire project street frontage per City standards; refer to the current "Guidelines for Planning, Design, and Construction of City Streetscape Projects". Street trees shall be installed in cut-outs at the back of curb. Obtain a DOT street tree planting permit for any proposed street tree plantings. Street trees shown on this permit are conceptual only.

#### **Parks, Recreation & Neighborhood Services**

1. **Parkland Dedication Ordinance.** This residential project is subject to either the requirements of the City's Park Impact Ordinance (Chapter 14.25 of Title 14 of the San Jose Municipal Code) or the Parkland Dedication Ordinance (Chapter 19.38 of Title 19 of the San Jose Municipal Code) for the dedication of land and/or payment of fees in-lieu of dedication of land for public park and/or recreational purposes under the formula contained within in the Subject Chapter and the Associated Fees and Credit Resolutions. Prior to approval of the Final Map or final building permits for this development, the applicant shall enter into a parkland agreement with the City to the satisfaction of the Director of Public Works in order to fulfill the requirements of the Parkland Dedication Ordinance. (AP50-2013)
- a. PDO credit cannot be given for the land area encumbered by easement in accordance with Municipal Code requirements.
  - b. The proposed North San Pedro Park site adjacent to the project site shall include Emergency Vehicle Access (EVA) to serve the project site, subject to approval by the Fire Department. PDO credit will not be given for the area of the EVA.

2. **Park System/Parkland Dedication Credit.** A publicly accessible turnkey park has been proposed at this location. As proposed, this park may be eligible to receive parkland dedication credit. In order to receive credit, the proposed park space must conform to SJMC Chapters 14.25 and 19.38 and go through the PRNS Turnkey Park Process. It is important to note that this agreement will be tied to the entire North San Pedro project area as identified in the Disposition and Development Agreement (DDA) dated June 19, 2007, latest amendment, and not to individual projects.

## **Police**

### **Windows.**

1. The lower windows of the proposed building should have no surrounding materials on the exterior of the building, which can be used to climb and allow entry into any residential unit.

### **Parking Garage.**

1. The interior of the structure should be painted a light, highly reflective color.
2. Metal halide, or other bright white light source, should be utilized. No dark areas should exist inside the structure.
3. All storage, maintenance, and trash rooms within the parking garage should have doors which cannot be locked from the inside, and that close and lock quickly and automatically upon exit.
4. Alcoves and other visual obstructions that might constitute a hiding place should be eliminated whenever structurally possible. Pillars, columns and other open construction should be utilized over a solid wall design.
5. Whenever possible, stairwells should be of open design. When, by necessity, a stairwell is enclosed, convex mirrors should be placed at each stairwell landing, and the stairwell doors should employ as much transparent material as fire code allows.
6. Access control should be utilized for vehicular and pedestrian entry.
7. Vehicular Entrances should be controlled by security gates/arms which can be secured to deter criminal activity.

### **Signage/Parking Garage.**

1. "No Trespassing/Loitering" SJMC 10.20.140 (A) and 10.20.140 (D) posted at the entrances of parking lots and located in other appropriate places. Signs must be at least 2'x1' in overall size, with white background and black 2" lettering.
2. All entrances to parking areas shall be posted with appropriate signs per 22658(a) CVC, to assist in removal of vehicles at the property owners/managers request.

### **Additional**

1. All exterior bench seating at proposed project should have arm rest which require individual seating positions and eliminate the benches to be used for sleeping.



**Revocation, Suspension, Modification.** This Planned Development Permit may be revoked, suspended or modified by the Planning Director, or by the Planning Commission on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds: (*FPCI-2013*)

- a. A violation of any conditions of the Planned Development Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
- b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
- c. The use as presently conducted creates a nuisance.

**APPROVED** and issued on this **12th day of February, 2014.**

David Sykes, Interim Director  
Planning, Building, and Code Enforcement

Deputy